

HOUSE BILL No. 1378

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-41-9.5; IC 34-30-2.

Synopsis: Bioterrorism vaccination and quarantine. Requires the state department of health to publish and distribute forms disclosing the risks and benefits of vaccines against bioterrorism diseases and to publish and distribute forms for vaccination exemption by an adult or a parent or guardian of a child. Requires a health care provider to provide a copy of the appropriate form to the adult or parent or guardian of a child receiving a vaccination. Requires the quarantine of an individual who has a bioterrorism disease in the residence of the individual or in the least restrictive setting.

Effective: Upon passage.

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January 20, 2004, read first time and referred to Committee on Interstate and International Cooperation.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1378

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-36.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 36.5. As used in this chapter,**
4 **"bioterrorism disease" means a life threatening disease, including:**

- 5 (1) the pneumonic plague;
6 (2) smallpox;
7 (3) viral hemorrhagic fevers; and
8 (4) other similar diseases.

9 SECTION 2. IC 16-18-2-163, AS AMENDED BY P.L.205-2003,
10 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 163. (a) "Health care provider", for purposes
12 of IC 16-21 and IC 16-41, means any of the following:

- 13 (1) An individual, a partnership, a corporation, a professional
14 corporation, a facility, or an institution licensed or legally
15 authorized by this state to provide health care or professional
16 services as a licensed physician, a psychiatric hospital, a hospital,
17 a health facility, an emergency ambulance service (IC 16-31-3),

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a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

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- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a licensed nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an emergency medical technician-basic advanced;
- (9) an emergency medical technician-intermediate; or
- (10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of IC 16-41-9.5, means an individual licensed by the state to provide health care or professional services as:

- (1) a licensed physician;**
- (2) a registered nurse; or**
- (3) a licensed practical nurse.**

SECTION 3. IC 16-18-2-250.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 250.5. (a) "Nonhospital quarantine", for purposes of IC 16-41-9.5, means a location that:**

- (1) is used for quarantine, detention, or isolation of an individual; and**
- (2) is not a hospital licensed under IC 16-21-2.**

(b) The term may include the following:

- (1) A college dormitory.**
- (2) A community center.**
- (3) A church, synagogue, or other place of worship.**
- (4) A physician's office.**
- (5) A public library.**
- (6) A county home.**
- (7) A school.**

(c) The term shall not include:

- (1) a location where violent force is used to confine an individual; or**
- (2) the following:**
 - (A) A mental hospital.**
 - (B) A mental ward.**
 - (C) A military base.**
 - (D) A warehouse.**
 - (E) A shopping mall.**
 - (F) An auditorium.**

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(G) An arena.

(H) A theater.

SECTION 4. IC 16-18-2-302.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 302.5. "Quarantine", for purposes of IC 16-41-9.5, means quarantine, isolation, or detention.**

SECTION 5. IC 16-18-2-354.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 354.5. "Treatment", for purposes of IC 16-41-9.5, means a medical examination or procedure administered to:**

- (1) diagnose;
- (2) evaluate;
- (3) alleviate; or
- (4) cure;

a bioterrorism disease.

SECTION 6. IC 16-18-2-362.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 362.5. "Vaccination", for purposes of IC 16-41-9.5, means an inoculation with a medical countermeasure against bioterrorism diseases.**

SECTION 7. IC 16-18-2-362.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 362.7. "Vaccine", for purposes of IC 16-41-9.5, means a medical countermeasure against bioterrorism diseases.**

SECTION 8. IC 16-41-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 9.5. Vaccination Exemption and Disclosure

Sec. 1. (a) The state department shall prepare and publish, in English and Spanish:

- (1) a vaccination disclosure form for each vaccination; and
- (2) an exemption from vaccination form for:
 - (A) adults; and
 - (B) children.

(b) Each vaccination disclosure form published under subsection (a)(1) must include an explanation of the:

- (1) risks, including:
 - (A) contraindications;
 - (B) warnings; and
 - (C) adverse reactions;

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1 based on the manufacturer's package insert; and
 2 (2) benefits;
 3 of the vaccine used in the vaccination.

4 (c) The exemption from vaccination form prescribed under
 5 subsection (a)(2) must include:

6 (1) an explanation of an adult's legal right to not receive a
 7 vaccination or treatment if the adult has not given voluntary
 8 written consent for the administration of a vaccine or
 9 treatment before the vaccination or treatment occurs;

10 (2) an explanation of a child's legal right to not receive a
 11 vaccination or treatment if the child's parent or guardian has
 12 not given voluntary written consent for the administration of
 13 a vaccine or treatment before the vaccination or treatment
 14 occurs;

15 (3) a signature line;

16 (4) a date line;

17 (5) options to claim an exemption under:

18 (A) subdivision (1); and

19 (B) subdivision (2);

20 (6) directions for the parent or guardian of a child to file the
 21 exemption from vaccination form with:

22 (A) the child's teacher; or

23 (B) an individual who may order a vaccination or
 24 treatment for the child absent an objection; and

25 (7) directions for an adult to keep a copy of the adult's
 26 exemption from vaccination form.

27 Sec. 2. The state department shall distribute the forms described
 28 in section 1 of this chapter to each health care provider who
 29 provides a vaccination or treatment.

30 Sec. 3. (a) Each health care provider who provides a vaccination
 31 or treatment shall:

32 (1) when giving a vaccination, use a needle safety device that
 33 provides maximum protection for the health care provider;
 34 and

35 (2) before giving a vaccination or treatment, provide a copy
 36 of the forms described in section 1 of this chapter to:

37 (A) the adult; or

38 (B) the parent or guardian of the child;

39 who may receive the vaccination or treatment.

40 (b) The health care provider shall read and explain the
 41 vaccination disclosure form and exemption from vaccination form
 42 if requested to do so by the adult or a parent or guardian of the

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child before receiving a vaccination or treatment.

Sec. 4. An adult shall not be required to receive a vaccination without the adult's voluntary written consent.

Sec. 5. A child shall not be required to receive a vaccination without the voluntary written consent of the child's parent or guardian.

Sec. 6. (a) A civil or criminal penalty shall not be imposed on an adult for not giving consent to receive a vaccination or treatment.

(b) A civil or criminal penalty shall not be imposed on a parent or guardian of a child for the parent's or guardian's not giving voluntary written consent for the child to receive a vaccination or treatment.

Sec. 7. An employer shall not discriminate against an employee in the terms and conditions of employment for not giving voluntary written consent to receive a vaccination or treatment.

Sec. 8. An adult shall not be quarantined for not giving voluntary written consent to receive a vaccination.

Sec. 9. A child shall not be quarantined because the parent or guardian of the child has not given voluntary written consent for the child to receive a vaccination.

Sec. 10. A physician who knowingly violates this chapter is subject to disciplinary sanctions under IC 25-1-9 as if the physician had knowingly violated a rule adopted by the medical licensing board under IC 25-22.5-2.

Sec. 11. A nurse who knowingly violates this chapter is subject to disciplinary sanctions under IC 25-1-9 as if the nurse had knowingly violated a rule adopted by the Indiana state board of nursing under IC 25-23-1.

Sec. 12. (a) If a physician determines that:

- (1) an adult or child has contracted; or
- (2) there is an imminent possibility that the adult or child will develop;

a bioterrorism disease, the adult or child shall be quarantined only in the least restrictive setting necessary for the mental and physical health of the adult or child.

(b) An individual to whom subsection (a) applies may be quarantined in:

- (1) the individual's residence or, if the individual is a child, the residence of the child's parent or guardian;
- (2) a hospital licensed under IC 16-21-2; or
- (3) a nonhospital quarantine.

(c) A physician who makes a determination under subsection (a)

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shall, in determining a quarantine location for the individual, give considerable deference to the directives:

- (1) of the individual; or
- (2) if the individual is a child, of the child's parent or guardian.

Sec. 13. The health status of an individual who is quarantined under this chapter may be monitored by a health care provider as medically appropriate to determine whether the individual should:

- (1) continue in quarantine; or
- (2) be released from quarantine.

Sec. 14. (a) The option of quarantine in the individual's residence shall be made available when an individual is quarantined under this chapter, if possible.

(b) If an adult or a child is quarantined in a place other than the adult's or child's residence:

- (1) the premises used shall be:
 - (A) maintained in a hygienic manner;
 - (B) safe and free from violence; and
 - (C) designed to minimize the likelihood of further transmission or infection; and
- (2) to the extent possible, cultural and religious beliefs shall be considered in addressing the needs of the quarantined individual in establishing and maintaining the premises.

Sec. 15. The length of a quarantine under this chapter shall not be longer than the period during which the quarantined individual is contagious, plus one (1) day.

Sec. 16. (a) After a quarantine period determined under section 15 of this chapter has expired, the quarantined adult or the parent or guardian of the quarantined child may request:

- (1) in the case of quarantine in a residence, release from quarantine; or
- (2) in the case of:
 - (A) quarantine in a hospital; or
 - (B) nonhospital quarantine;
 discharge to return to the residence of the adult or the child's parent or guardian.

(b) A quarantined adult or child shall be released upon request under the circumstances set forth in subsection (a).

Sec. 17. (a) If a child is quarantined under this chapter, the parent or guardian of the child may remain with the child in quarantine.

(b) If an individual who is quarantined under this chapter is the

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parent or guardian of one (1) or more children, the individual may give voluntary written consent to be separated from the children for placement of the children in the residence of a relative, friend, or neighbor. The children shall be placed in accordance with the directives of the parent or guardian, if possible.

Sec. 18. If an adult is quarantined under section 12 of this chapter, another adult family member may remain in quarantine with the quarantined adult.

Sec. 19. An individual is not subject to civil or criminal penalty for the accidental transmission of a vaccine virus or a disease due to the individual having been vaccinated or having contracted a bioterrorism disease.

Sec. 20. (a) A governmental entity shall notify the owner of a property if the governmental entity wishes to use the property for quarantine purposes for individuals who are not members of the property owner's family.

(b) A governmental entity shall not use private property for quarantine purposes if the property owner does not give voluntary written consent to allow the property to be used for quarantine purposes.

(c) A governmental entity may compensate a property owner for the use of property for quarantine purposes.

Sec. 21. The state department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 9. IC 34-30-2-81.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 81.1. IC 16-41-9.5-6 (Concerning an adult, a parent, or a guardian not giving voluntary written consent for vaccination or treatment).

SECTION 10. IC 34-30-2-81.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 81.2. IC 16-41-9.5-19 (Concerning an individual's accidental transmission of a vaccine virus or bioterrorism disease).

SECTION 11. An emergency is declared for this act.

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